

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No: 2:17-cv-12983-LJM-MKM

Christine L. Tyler,

Plaintiff,

CLASS ACTION

-vs.

Fabrizio & Brook, P.C.,

Defendant.

**FIRST AMENDED CLASS ACTION COMPLAINT AND JURY
DEMAND**

Plaintiff Christine L. Tyler, on behalf of herself and all other similarly situated, by and through her counsel, Stephen A. Thomas, PLC, by Attorney Stephen A. Thomas, brings this amended class action case against Defendant Fabrizio & Brook, P.C., ("Fabrizio & Brook" or "Defendant"), and states the following claims for relief:

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).

2. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").

VENUE

3. Venue is proper in this District because the acts and transactions occurred here, Plaintiff resides here in Detroit Michigan, and Defendant transacts business here in Detroit Michigan.

PARTIES

4. Plaintiff Christine L. Tyler is a natural person who resides in the City of Detroit, County of Wayne, State of Michigan, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

5. Fabrizio & Brook, P.C., (hereinafter, "Fabrizio & Brook") acquired and/or otherwise obtained the Debt for the purpose of collection and or foreclosure from Plaintiff.

6. Fabrizio & Brook is a business entity engaged in the collection of debt within the State of Michigan. Fabrizio & Brook is registered as a Domestic Professional Service Corporation in the State of Michigan with its Resident Agent: ROSE MARIE BROOK and Registered Office Address: 700 TOWER DR., STE 510, TROY, MI 48098.

7. The principal purpose of Fabrizio & Brook's business is the collection of debts allegedly owed to third parties and foreclosures of properties.

8. Fabrizio & Brook regularly collects, or attempts to collect, debts allegedly owed to third parties.

9. During the course of its efforts to collect debts allegedly owed to third parties, Fabrizio & Brook sends to alleged debtors bills, statements, and/or other correspondence via the mail and/or electronic mail and initiates contact with alleged debtors via various means of telecommunication, such as the telephone, facsimile and U.S. Mail.

10. At all relevant times, Fabrizio & Brook acted as a debt collector as that term is defined by 15 U.S.C. §1692a(6).

11. Defendant Fabrizio & Brook regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and operating from an address at 700 TOWER DR., STE 510, TROY, MI 48098.

GENERAL ALLEGATIONS

12. That Defendant Fabrizio & Brook attempted to collect a debt in the amount of \$27,036.78, an amount which had already been discharged in bankruptcy, from a Bank of America account.

13. That on December 16, 2014, Plaintiff Christine L. Tyler filed her Chapter 7 Bankruptcy Case Number 14-59228-mar.

14. That Plaintiff Christine L. Tyler later received her Chapter 7 Bankruptcy discharge on March 24, 2015.

15. That any and all debts allegedly owed to Defendant Fabrizio & Brook was discharged in her bankruptcy case.

16. That Defendant Fabrizio & Brook contacted Plaintiff Christine L. Tyler through a collection letter dated September 13, 2016.

17. Defendant Fabrizio & Brook's September 13, 2016 letter stated in part, "***you owe \$27,036.78***", which was an unfair and deceptive attempt to collect a debt not owed, which materially misled Plaintiff Tyler as to her rights under the FDCPA, and which affected and frustrated Plaintiff Tyler's ability to intelligently respond to Defendant's collection efforts.

CLASS ACTION ALLEGATIONS

18. Plaintiff brings this action individually and as a class action on behalf of the following Class: All persons who received a Bankruptcy Discharge in the State of Michigan to whom the Defendant sent a letter that stated "you owe" monies for which no monies were owed within one year before the action was filed (the "Class").

19. Plaintiff reserves the right to redefine the Class prior to certification.

20. Excluded from the Class is any entity in which Defendant has a controlling interest, officers or directors of Fabrizio & Brook, all government entities, and any justice or judicial officer presiding over this matter.

21. This action is brought and may be properly maintained as a class action pursuant to Fed. R. Civ. P. 23. This action satisfies the numerosity, typicality, adequacy, predominance, and superiority requirements of those provisions.

22. The Class is so numerous that the individual joinder of all of its members is impracticable. The exact number and identities of members of the Class is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery.

23. Plaintiff will fairly and adequately represent and protect the interests of the Class.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT.

24. Plaintiff incorporates the preceding allegations by reference.

25. At all relevant times Defendant Fabrizio & Brook, in the ordinary course of business, regularly engaged in the practice of collecting debts.

26. Plaintiff Tyler is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.

27. Defendant Fabrizio & Brook is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).

28. Defendant Fabrizio & Brook's foregoing acts in attempting to collect this debt violated 15 U.S.C. §1692 et seq.

29. The Plaintiff has suffered economic, emotional, general and statutory damages as a result of these violations of the FDCPA.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury in this action.

DEMAND FOR JUDGMENT FOR RELIEF

Wherefore, Plaintiff requests that the Court grant her the following relief against Defendant Fabrizio & Brook:

- a. Actual damages.
- b. Statutory damages.
- c. Statutory costs and attorney fees.

Respectfully submitted,

/s/ Stephen A. Thomas

Dated: March 13, 2018

STEPHEN A. THOMAS P43260
Attorney for Plaintiff
645 Griswold St., Suite 1360
Detroit, Michigan 48226
313-965-2265
sthomas@313965bank.com

Certificate of Service

I, Stephen A. Thomas, hereby state that on March 13, 2018, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to the attorneys of record.

/s/ Stephen A. Thomas